



National Clearinghouse on Child Abuse and Neglect Information National Adoption Information Clearinghouse



Gateways to Information: Protecting Children and Strengthening Families

State Statutes Series 2004

Consent to Adoption: Summary of State Laws

What Is Consent?

Consent refers to the agreement by a parent, or a person or agency acting in place of a parent, to relinquish the child for adoption and to release all rights and duties with respect to that child. In most States, the consent must be in writing and either witnessed and notarized or executed before a judge or other designated official. State legislatures have developed a range of provisions designed to ensure protection for those individuals involved, including:

- Children (to prevent unnecessary and traumatic separations from their adult caretakers)
- Birth parents (to prevent uninformed, hurried, or coerced decisions)
- Adoptive parents (to prevent anxiety about the legality of the adoption process)

Who Must Consent

In all States, the birth mother and the birth father (if he has properly established paternity¹) hold the primary right of consent to adoption of their child. Either one or both parents may have these rights terminated for a variety of possible reasons, including abandonment, failure to support the child, mental incompetence, or a finding of parental unfitness due to abuse or neglect. When neither birth parent is available to give consent, the responsibility can fall to other legal entities, such as:

- An agency that has custody of the child
- Any person who has been given custody
- A guardian or guardian *ad litem*
- The court having jurisdiction over the child
- A close relative of the child
- A “next friend” of the child, who is a responsible adult appointed by the court

¹ In those States where there is a putative father registry, a birth father who fails to register in the prescribed manner and within the proper time period, may lose the right to consent. Other jurisdictions require unwed fathers to file a notice of their paternity claim within a certain period of time. See the Clearinghouse publication, *The Rights of Presumed (Putative) Fathers*, for detailed, State-by-State information.



Consent of Minors

Nearly all States,² the District of Columbia, and the U.S. Territories require that older children give consent to their adoption. Approximately³ 24 States,⁴ the District of Columbia, and the Virgin Islands set the age of consent at 14 years; 18 States,⁵ American Samoa, and Guam at 12 years; and 7 States,⁶ the Northern Mariana Islands, and Puerto Rico require consent of children age 10 years and above. In some States, the requirement can be dispensed with if the child lacks the mental capacity to consent,⁷ or the court finds it in the best interest of the child to dispense with consent.⁸ Colorado requires that the child be provided with counseling prior to giving consent.

When Consent Can Be Executed

Approximately 46 States⁹ and the District of Columbia specify in statute when a birth parent may execute consent to adoption. Fifteen States¹⁰ and the Northern Mariana Islands allow birth parents to consent at any time after the birth of the child, while 29 States require a waiting period before consent can be executed. Approximately 12 States¹¹ and the Northern Mariana Islands allow an alleged birth father to execute consent at anytime before or after the child's birth.

The shortest waiting periods are 12 and 24 hours,¹² and the longest are 10 and 15 days.¹³ The most common waiting period, required in 14 States¹⁴ and the District of Columbia, is 72 hours, or 3 days.¹⁵ Only two States (Alabama and Hawaii) allow the birth mother to consent before the birth of her child; however, the decision to consent must be reaffirmed after the child's birth.

² Louisiana does not currently address in statute the issue of consent by the minor adopted person.

³ The word *approximately* is used to stress the fact that States frequently amend their laws, so this information is current only through November 2004.

⁴ Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New York, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Washington, and Wyoming

⁵ Arizona, California, Colorado, Connecticut, Florida, Idaho, Kentucky, Massachusetts, Montana, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, West Virginia, and Wisconsin

⁶ Alaska, Arkansas, Hawaii, Maryland, New Jersey, New Mexico, and North Dakota

⁷ In 10 States: Alabama, Idaho, Illinois, Kansas, Missouri, Montana, New Jersey, New Mexico, South Carolina, and Utah

⁸ In 14 States, Alaska, Arkansas, Delaware, Florida, Hawaii, New Hampshire, New York, North Carolina, Ohio, South Carolina, Texas, Vermont, Virginia, and West Virginia, and the Northern Mariana Islands

⁹ Idaho, Maryland, New York, Oregon, and the territories of American Samoa, Guam, Puerto Rico, and the Virgin Islands do not currently provide in statute for a specific time period for executing consent.

¹⁰ Alaska, Arkansas, California, Colorado, Delaware, Georgia, Hawaii, Indiana, Maine, North Carolina, North Dakota, Oklahoma, South Carolina, Wisconsin, and Wyoming

¹¹ Alabama, Delaware, Illinois, Kansas, Louisiana, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Pennsylvania, Texas, and Utah

¹² Kansas imposes a 12-hour waiting period. Utah imposes a 24-hour waiting period.

¹³ Virginia and Washington impose a 10-day waiting period. Rhode Island imposes a 15-day waiting period.

¹⁴ Arizona, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, Ohio, Pennsylvania, Tennessee, and West Virginia

¹⁵ Waiting periods in other States are 36 hours (Vermont), 48 hours (Connecticut, Florida, Missouri, Nebraska, New Mexico, Texas, and Washington), 4 days (Massachusetts), and 5 days (Louisiana and South Dakota).

How Consent Must Be Executed

The manner in which consent can be executed varies considerably from State to State. In many States,¹⁶ the District of Columbia, and the U.S. territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, consent may be executed by a written statement witnessed and/or notarized by a notary public. Other States¹⁷ may require an appearance before a judge or the filing of a petition of relinquishment. Some States require that the parent be provided with counseling,¹⁸ have his or her rights and the legal effect of relinquishment explained to him or her, or be provided with legal counsel¹⁹ prior to consent. In cases in which custody has previously been placed with an agency, the head of the agency may sign an affidavit of consent.

In most States, a birth parent who is a minor is treated no differently than other birth parents. However, in some States, the minor parent must be provided with separate counsel prior to execution of consent,²⁰ or a guardian *ad litem* must be appointed to either review or execute the consent.²¹ In six States,²² Guam, and Puerto Rico, the consent of the minor's parents must be obtained.

Revocation of Consent

Adoption is meant to create a permanent and stable home for a child; therefore, a validly executed relinquishment and consent to adopt is intended to be final and irrevocable. As a result, the right of a birth parent to revoke consent is strictly limited. Mississippi, Nebraska, American Samoa, and the Virgin Islands make no provisions in statute for revocation of consent, and Massachusetts and Utah specifically require that all consents are irrevocable.

In most States, the law provides that consent may be revoked prior to the entry of the final adoption decree under specific circumstances or within specified time limits. The circumstances under which withdrawal of consent may be permitted by a State can include:

- Consent was obtained by fraud, duress, or coercion.²³
- The birth parent is allowed to withdraw consent within a specified period of time, after which consent becomes irrevocable.²⁴

¹⁶ In 28 States: Alabama (except for the mother, who must appear before the court), Arizona, California, Delaware, Florida, Georgia, Indiana, Iowa (except for minor parents), Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Texas, and Wyoming

¹⁷ Alabama (for the birth mother), Alaska, Arkansas, Colorado, Connecticut, Hawaii, Idaho, Illinois, Iowa (if the birth parent is a minor), Kentucky, Maine, Michigan, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin

¹⁸ In Colorado, Iowa, Louisiana, Michigan, and New Mexico

¹⁹ In California, Louisiana, New Hampshire, New Mexico, North Carolina, South Carolina, and South Dakota

²⁰ In Kansas, Maryland, and Montana

²¹ Alabama, Arkansas, Connecticut, Kentucky, and Rhode Island

²² Indiana, Michigan, Minnesota, New Hampshire, Oklahoma, and Rhode Island

²³ Arizona, Colorado (the claim must be filed within 90 days), Florida (in private placements), Illinois (the claim must be filed within 12 months), Kansas, Missouri, New Jersey, New Mexico, Oregon, South Dakota (the claim must be filed within 2 years), Washington (the claim must be filed within 1 year, or within 2 years for an Indian child), West Virginia, Wisconsin, Wyoming, and Puerto Rico

²⁴ Arkansas (10 days), Delaware (60 days), Georgia (10 days), Kentucky (20 days), Louisiana (when consent is given prior to the 5th day after the child's birth), Maryland (30 days), Minnesota (10 days), and the District of Columbia (10 days)

- The birth parent is allowed to withdraw consent within a specified period of time, after which consent becomes irrevocable unless there is evidence of fraud or duress.²⁵
- The birth parent is allowed to withdraw consent within a specified period of time, after which consent becomes irrevocable unless it can be shown that revocation is in the best interests of child.²⁶
- There is a finding that withdrawal of consent is in the best interests of the child.²⁷
- The birth parents and adoptive parents mutually agree to the withdrawal of consent.²⁸
- An adoptive placement is not finalized with a specific family or within a specified period of time.²⁹

Consent becomes final and irrevocable once the court issues a final decree of adoption.

This publication is a product of the State Statutes Series prepared by the National Adoption Information Clearinghouse (NAIC). While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

Electronic copies of this publication may be downloaded from the Clearinghouse website at <http://naic.acf.hhs.gov/general/legal/statutes/consent.cfm>.

- To find statute information for a particular State, go to <http://naic.acf.hhs.gov/general/legal/statutes/search> and select the specific State and topic.
- To find information on all of the States and territories, view the complete PDF at <http://naic.acf.hhs.gov/general/legal/statutes/consentall.pdf> or call the Clearinghouse at (888) 251-0075 or (703) 352-3488 to order a copy.

²⁵ Alabama (5 days), Florida (3 days if an agency placement), Iowa (96 hours), Maine (3 days), New York (45 days for extrajudicial consents), North Carolina (7 days; 5 days in a direct placement), Oklahoma (15 days for extrajudicial consents), Pennsylvania (30 days), Tennessee (10 days), Texas (10 days), Vermont (21 days), and Virginia (15 days)

²⁶ Alabama (14 days), Alaska (10 days), Indiana (30 days), and Rhode Island (180 days)

²⁷ Connecticut, Hawaii, New Hampshire, North Dakota, Ohio, Guam, and the Northern Mariana Islands

²⁸ Montana, Oklahoma, Vermont (request must be made within 21 days), Virginia (request must be made within 15 days), and West Virginia

²⁹ California (if the placement is not made within 30 days), Maine, Oklahoma (if the placement is not made within 90 days), and Nevada (if the prospective adoptive family is found to be unsuitable, or no petition for adoption is filed within 2 years)

Alabama**Who Must Consent to an Adoption****Statute: §§ 26-10A-7; 26-10A-8**

- The mother
- The presumed father, regardless of paternity
- The agency to whom the child has been relinquished
- The putative father, if he has responded to notice
- A minor parent, to whom a guardian *ad litem* must be appointed

Age When Consent of Adoptee Is Considered or Required**Statute: § 26-10A-7**

A child 14 years of age or older must consent to the adoption, except where the court finds that the child does not have the mental capacity to consent.

When Parental Consent Is Not Needed**Statute: §§ 26-10A-9; 26-10A-10**

- The parent has:
 - Abandoned the child
 - Failed to respond to notice
 - Had his or her rights terminated
 - Been found to be incompetent
 - Relinquished the child to a child-placing agency or the department
- The parent is deceased.
- An alleged father signs an affidavit denying paternity.
- The natural father is unknown.

When Consent Can Be Executed**Statute: § 26-10A-13**

Any time prior to or after the birth of the child

How Consent Must Be Executed**Statute: §§ 26-10A-11; 26-10A-12**

- The consent of the mother given before the birth of the child must be signed and confirmed before a probate judge.
- Other consents may be executed in the presence of a judge, court clerk, or any public officer, a person appointed by an agency authorized to take consents, or a notary public.

Revocation of Consent**Statute: §§ 26-10A-9; 26-10A-13; 26-10-14**

- Consent that is implied by reason of abandonment of the child, as provided in § 26-10A-9(a), may not be withdrawn by any person.
- Consent can be withdrawn for any reason within 5 days of the birth of the child or the signing of consent, or within 14 days if the court finds it consistent with the child's best interest.
- Consent can be withdrawn any time prior to the final adoption decree for fraud, duress, undue influence, or mistake.

Alaska**Who Must Consent to an Adoption****Statute: § 25.23.040**

- The mother
- The father if married to the mother
- The father by adoption, or otherwise legitimized
- Any person lawfully entitled to custody or consent
- The court
- The spouse of a minor

Age When Consent of Adoptee Is Considered or Required**Statute: § 25.23.040**

- A child 10 years of age or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.
- An adult to be adopted must consent.

When Parental Consent Is Not Needed**Statute: § 25.23.050**

- A parent has:
 - Abandoned the child
 - Failed to communicate with or support the child
 - Had rights terminated
 - Been declared incompetent
- The child is 19 years of age or older.

When Consent Can Be Executed**Statute: § 25.23.060**

May be executed any time after the child's birth

How Consent Must Be Executed**Statute: § 25.23.060**

Consent is executed:

- Before the court
- Before a person authorized to take acknowledgments

Revocation of Consent**Statute: § 25.23.070**

- Consent may be withdrawn before the entry of the adoption decree for any reason within 10 days of executing consent.
- After the 10-day period, the court must find withdrawal of consent to be in the child's best interest.
- Consent to adoption may not be withdrawn after the entry of a decree of adoption.

American Samoa**Who Must Consent to an Adoption****Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

Age When Consent of Adoptee Is Considered or Required**Statute: § 45.0412(b)**

Written consent must be obtained from any child 12 years of age or older.

When Parental Consent Is Not Needed**Statute: § 45.0401**

A court has terminated the parents' rights upon determination that the child has been neglected.

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed**Statute: § 45.0412(a)**

All required consents must be written and verified and attached to the adoption petition.

Revocation of Consent**Statute: § 45.0431**

- The final decree of adoption may not be attacked for any procedural defect after 2 years.
- There is no specific provision for revocation of consent.

Arizona**Who Must Consent to an Adoption****Statute: § 8-106(A), (B)**

- The birth or adoptive mother
- The father:
 - If he was married to the mother at the time of conception
 - Is the the adoptive father
 - Has otherwise established paternity
- Any guardian of the child or agency that has been given the child to place for adoption
- The guardian of an adult parent, if one has been appointed

Minority of the parent does not affect competency to consent.

Age When Consent of Adoptee Is Considered or Required**Statute: § 8-106(A)**

A child 12 years of age or older must consent to the adoption in open court.

When Parental Consent Is Not Needed**Statute: §§ 8-106(B);8-106.01(E)**

- A parent has had his or her parental rights terminated.
- A parent has previously consented that an agency place the child.
- An adult parent has had a guardian appointed.
- A putative father who does not file claim of paternity waives right of notice.

When Consent Can Be Executed**Statute: § 8-107(B)**

Any consent given sooner than 72 hours after the birth of the child is invalid.

How Consent Must Be Executed**Statute: § 8-107(A)**

In writing, witnessed by two or more credible witnesses, and acknowledged before a notary public

Revocation of Consent**Statute: § 8-106(D)**

Consent is irrevocable unless obtained by fraud, duress, or undue influence.

Arkansas**Who Must Consent to an Adoption****Statute: § 9-9-206**

- The mother
- The father, if married to the mother or otherwise has established paternity
- Any person or agency lawfully entitled to custody
- The court
- The spouse of the minor to be adopted

Age When Consent of Adoptee Is Considered or Required**Statute: § 9-9-206**

A child 10 years of age or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.

When Parental Consent Is Not Needed**Statute: § 9-9-207**

- A parent has:
 - Deserted the child
 - Failed to communicate or provide for the care or support of the child for at least 1 year
 - Relinquished rights or had them terminated
 - Been declared incompetent
- The person to be adopted is an adult.
- A legal guardian fails to respond to a request for consent for 60 days, or has been found to be withholding consent unreasonably.

When Consent Can Be Executed**Statute: § 9-9-208**

Can be executed any time after the birth of the child

How Consent Must Be Executed**Statute: § 9-9-208**

- Consent must be executed in the presence of a judge or authorized person.
- If a child is old enough to grant consent, he must do so in the presence of a judge.
- If the parent is a minor, the guardian *ad litem* must sign the consent.

Revocation of Consent**Statute: § 9-9-209**

- Consent to adoption cannot be withdrawn after the entry of a decree of adoption.
 - A consent to adoption may be withdrawn within 10 days after it is signed or the child is born, whichever is later.
-

California**Who Must Consent to an Adoption****Statute: Fam. Code §§ 8603; 8604**

- The birth parents, if living
- The parent having custody if the other parent:
 - Fails to communicate with and support the child
 - Fails to respond to notice of adoption
- A married person may not adopt a child without the consent of the spouse.

Age When Consent of Adoptee Is Considered or Required**Statute: Fam. Code § 8602**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Fam. Code §§ 8604; 8606**

The parent has:

- Relinquished rights or had them terminated
- Deserted the child
- Willfully failed to contact or support the child for 1 year

When Consent Can Be Executed**Statute: Fam. Code §§ 8801.3; 8700**

- In a direct placement, consent may only take place after the discharge of the birth mother from the hospital. If the mother is required to be hospitalized longer than the child, consent may be given with verification of competency from her physician.
- Relinquishment to an agency can take place any time after the birth of the child.

How Consent Must Be Executed**Statute: Fam. Code §§ 8801.3; 8814; 8700**

- In a direct placement, consent must take place in the presence of an Adoption Service Provider or other delegated agent, who has advised the parents of their rights.
- In an agency adoption, a form is signed before two witnesses and acknowledged before an official of the agency.

Revocation of Consent**Statute: Fam. Code §§ 8814.5; 8700**

- In a direct placement, after consent has been given, the parents have 30 days to submit a signed revocation and request the return of the child or sign a waiver of the right to revoke consent.
- In an agency adoption, consent is final and may only be rescinded by mutual consent, unless the birth parent has specified an adoptive parent and that placement is not finalized; then the parent has 30 days to rescind.

Colorado**Who Must Consent to an Adoption****Statute: § 19-5-203**

Written, verified consent is required from:

- The parents
- A guardian of a child whose parents are deceased
- A parent in a stepparent adoption.

Age When Consent of Adoptee Is Considered or Required**Statute: §§ 19-5-103; 19-5-203**

Children must undergo counseling. Written consent must be obtained from any child age 12 years of age or older.

When Parental Consent Is Not Needed**Statute: §§ 19-5-203; 19-3-604**

- The parent's rights have been terminated due to the parent's unfitness, as outlined in § 19-3-604.
- The parent has failed to provide support or has abandoned the child for 1 year.

When Consent Can Be Executed**Statute: §§ 19-5-104; 19-5-203**

Consent may be executed any time after the birth of the child.

How Consent Must Be Executed**Statute: § 19-5-103**

The parent must obtain counseling from the Department of Social Services and petition the court.

Revocation of Consent**Statute: § 19-5-104(7)(a)**

Consent may be revoked only if, within 90 days after the entry of the order, it is established by clear and convincing evidence that the consent was obtained by fraud or duress.

Connecticut**Who Must Consent to an Adoption****Statute: § 45a-724**

- Any statutory parent
- A surviving parent when one parent has died
- An unwed mother, provided that the putative father has received notice or had rights terminated
- The child's guardian

Age When Consent of Adoptee Is Considered or Required**Statute: § 45a-724**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 45a-717(f)-(g)**

Parent has:

- Had rights terminated
- Abandoned the child
- Caused the child nonaccidental injury
- Failed to maintain a relationship with the child for at least 1 year
- Killed another child of the parent or was convicted of sexual assault resulting in the conception of a child

When Consent Can Be Executed**Statute: § 45a-715(d)**

The mother cannot consent until at least 48 hours after the child's birth.

How Consent Must Be Executed**Statute: § 45a-715(d), (f)**

- A petition for voluntary relinquishment must be approved by the court.
- Relinquishment by a minor parent must be approved by a guardian *ad litem*.

Revocation of Consent**Statute: § 45a-719**

- A petition to set aside termination may be filed prior to final decree.
- The court will consider the child's best interests.

Delaware**Who Must Consent to an Adoption****Statute: Tit. 13 §§ 908; 1106**

- Consent shall be granted by the department or agency to whom rights are vested.
- In cases of adoption by a stepparent or blood relative, consent shall be granted by the biological mother and father.

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 13 § 907**

A child 14 years of age or older must provide written consent unless the court finds it in the child's best interest to waive consent.

When Parental Consent Is Not Needed**Statute: Tit. 13 § 1103(a)**

- The child has been abandoned.
- The parent is legally incompetent.
- The parent is convicted of a felony where a child has been harmed.
- There is a history of neglect or chronic abuse.

When Consent Can Be Executed**Statute: Tit. 13 § 1106**

- Consent by the mother can be given any time after the child's birth.
- Consent by the natural father may be executed prior to or after the child's birth.

How Consent Must Be Executed**Statute: Tit. 13 §§ 907; 1106(c)**

- Consent shall be written, notarized, and annexed to the adoption petition if parental rights have not been previously terminated.
- Consent executed by a parent or guardian must be signed or confirmed in the presence of a judge or other designated representative.

Revocation of Consent**Statute: Tit. 13 § 909**

Within 60 days of filing the petition of consent, a person wishing to revoke consent may petition the court.

District of Columbia**Who Must Consent to an Adoption****Statute: § 16-304**

- Both parents, if living
- The court-appointed guardian
- A licensed child-placing agency if parental rights have been terminated

Age When Consent of Adoptee Is Considered or Required**Statute: § 16-304**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 16-304**

When a parent:

- Cannot be located
- Has abandoned the child
- Has failed to support the child for at least 6 months
- Has relinquished all rights to an agency

When Consent Can Be Executed**Statute: § 4-1406(b)**

- No relinquishment of rights can be made within the first 72 hours after a child's birth.
- The parent must first undergo counseling.

How Consent Must Be Executed**Statute: § 16-304**

Consent must be executed before an officer authorized to take acknowledgments, a representative of a child-placing agency, or the Mayor's office.

Revocation of Consent**Statute: § 4-1406(c)**

Any voluntary relinquishment may be automatically revoked by a verified writing submitted to the agency within 10 calendar days.

Florida**Who Must Consent to an Adoption****Statute: § 63.062**

- The mother
- The father, if the child was conceived or born while he was married to the mother or he otherwise has established paternity
- Any person lawfully entitled to custody
- If parental rights have been terminated, the adoption entity with which the minor is placed

Age When Consent of Adoptee Is Considered or Required**Statute: § 63.062(1)(c)**

A child 12 years of age or older must consent, unless the court determines it is in the child's best interest to dispense with consent.

When Parental Consent Is Not Needed**Statute: § 63.089**

- The parent has abandoned the child, which may be established from marginal efforts to assume parental responsibility.
- Parental rights have been terminated.
- The parent is mentally incompetent.
- A guardian or custodian is found to be withholding consent unreasonably.

When Consent Can Be Executed**Statute: §§ 63.062; 63.088**

- Written consent must be executed by the birth mother no sooner than 48 hours after the minor's birth. The father may execute consent at any time after the birth of the child.
- Consent will be implied if the location or identity of a person whose consent is required, but is not known, and that person has been served with constructive notice (i.e., published in the newspaper of the county of last known residence, etc.).

How Consent Must Be Executed**Statute: § 63.082**

- In an agency adoption, consent is by affidavit from an authorized representative.
- In direct placements, parents may execute consent in the presence of two witnesses, acknowledged by a notary public.

Revocation of Consent**Statute: § 63.082**

- Consent to the adoption of a minor who is to be placed with identified prospective parents, under § 63.052, may be withdrawn only when the court finds that the consent was obtained by fraud or duress.
- Consent to the adoption of a minor older than 6 months of age may be revoked within 3 days or anytime prior to the placement, whichever is later, unless the consent was obtained by fraud or duress.

Georgia**Who Must Consent to an Adoption****Statute: § 19-8-4(a)**

Any living parent or guardian must voluntarily and in writing surrender all rights to the child to the department or child-placing agency.

Age When Consent of Adoptee Is Considered or Required**Statute: § 19-8-4(b)**

A child 14 years of age or older must consent in the presence of the court.

When Parental Consent Is Not Needed**Statute: § 19-8-10**

- The child has been abandoned and the parent cannot be found after a diligent search.
- The parent is insane or otherwise incapacitated.
- The parent has failed to exercise proper parental care.

When Consent Can Be Executed**Statute: § 19-8-5**

Consent may be executed any time after the birth of the child.

How Consent Must Be Executed**Statute: §§ 19-8-4; 19-8-5**

- In an agency adoption, consent may be executed before a notary and representative of the agency or the department.
- In a direct placement, consent may be executed before a notary.

Revocation of Consent**Statute: § 19-8-9(b)**

- The parent may withdraw consent within 10 days.
 - The surrender document is not valid unless it states the right of withdrawal.
 - Although not expressly stated in statute, consent may be invalid if executed under fraud, duress, or incapacity.
-

Guam**Who Must Consent to an Adoption****Statute: Tit. 19 § 4206**

- Each parent of the child must consent.
- If there is no parent, the guardian shall consent.
- A minor parent's consent must be concurred by his or her parent or guardian.

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 19 § 4206(c)**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Tit. 19 §§ 4206(b); 4207**

- The parents' rights have been previously terminated.
- The court finds that a guardian is withholding consent arbitrarily.

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed**Statute: Tit. 19 §§ 4206(b); 4207**

Consents must be in writing, attached to the adoption petition, acknowledged before a notary public, and witnessed by a representative of the court.

Revocation of Consent**Statute: Tit. 19 § 4208**

- Withdrawal of consent is not permitted, except by petition to the court and a finding of the child's best interest.
- Consent becomes irrevocable upon entry of an Order of Adoption.

Hawaii**Who Must Consent to an Adoption****Statute: § 578-2(a)**

- The mother
- A legal father
- An adjudicated or presumed father
- A natural father who demonstrates a reasonable degree of interest
- Any person or agency having legal custody; or the court having jurisdiction over the child's custody
- The court if the legal guardian is not empowered to consent

Age When Consent of Adoptee Is Considered or Required**Statute: § 578-2(a)(8)**

A child 10 years of age or older must consent, unless the court, in the child's best interest, dispenses with the need for the child to consent.

When Parental Consent Is Not Needed**Statute: § 578-2(c)**

A parent has:

- Deserted the child for 90 days
- Voluntarily surrendered care and custody of the child to another person for 2 years
- Failed to support or contact the child for 1 year
- Had parental rights terminated, pursuant to § 587-73
- Been declared mentally ill or retarded

When Consent Can Be Executed**Statute: § 571-61**

Consent may be given following the 6th month of pregnancy, provided that no judgment may be entered until after the birth of the child and petitioners have reaffirmed their desire to relinquish the child.

How Consent Must Be Executed**Statute: § 578-8**

No adoption decree shall be granted without a hearing at which anyone who needs to consent must appear, unless expressly excused by the court.

Revocation of Consent**Statute: § 578-2(f)**

Consent cannot be withdrawn after the child is placed with prospective adoptive parents, unless the court finds it would be in the child's best interest.

Idaho**Who Must Consent to an Adoption****Statute: § 16-1504**

- If the child was conceived in a marriage, by both parents or surviving parent
- If the child was born outside of marriage, then by the mother and the adjudicated biological father
- Any legally appointed custodian or guardian of the adopted person
- The agency that has been authorized to place the child

Age When Consent of Adoptee Is Considered or Required**Statute: § 16-1504**

A child 12 years of age or older must consent to the adoption, unless he or she lacks the mental capacity to consent.

When Parental Consent Is Not Needed**Statute: §§ 16-1504; 16-2005**

A parent:

- Has had parental rights terminated
- Has abused, neglected, or abandoned the child
- Has caused the child to be conceived as a result of rape or incest
- Has killed child's other parent
- Has been incarcerated and has no possibility of parole
- Is not the natural parent
- Is unable to discharge parental responsibilities

When Consent Can Be Executed

- This issue is not addressed in statutes reviewed.
- By implication, consent may be executed any time after the birth of the child.

How Consent Must Be Executed**Statute: §§ 16-2005; 16-1506**

Consent must be executed before any authorized officer, district judge, or magistrate, on a form found in the Idaho Code.

Revocation of Consent**Statute: § 16-1515**

If the parent revokes consent and petitions for custody of the child, the parent must reimburse the adoptive parents for expenses paid.

Illinois**Who Must Consent to an Adoption****Statute: 750 ILCS 50/8(b)**

- The mother
- The father, if he is married to the mother or has established paternity
- A legal guardian
- Any person or agency having legal custody

Age When Consent of Adoptee Is Considered or Required**Statute: 750 ILCS 50/12**

- A child 14 years of age or older must consent.
- The court may waive consent if child is in need of mental treatment or is mentally retarded.

When Parental Consent Is Not Needed**Statute: 750 ILCS 50/8(a)**

The parent:

- Is found to be an unfit person
- Is found not to be the biological or adoptive father of the child
- Has waived his or her parental rights
- Caused the child to be conceived as a result of sexual abuse

When Consent Can Be Executed**Statute: 750 ILCS 50/9**

- The mother's consent shall not be taken less than 72 hours after the child's birth.
- A father may consent before or after the birth of the child.
- Consent may be given to a standby adoption by a terminally ill parent, to become effective when the parent dies or requests finalization.

How Consent Must Be Executed**Statute: 750 ILCS 50/10**

- Consent to an agency may be taken by an agency representative.
- In a direct placement, consent is acknowledged in court unless the court waives the appearance.
- Forms to be used are contained in the statute.

Revocation of Consent**Statute: 750 ILCS 50/11; 750 ILCS 50/9**

- Consents are irrevocable unless obtained by fraud or duress.
- No action to void consent may commence 12 months after consent was given.
- The father may revoke consent within 72 hours after the birth.

Indiana**Who Must Consent to an Adoption****Statute: § 31-19-9-1**

- Each living parent of a child born in wedlock
- The mother of a child born out of wedlock and the father whose paternity has been established
- Any person or agency having custody
- The court having jurisdiction
- A minor parent with the concurrence of the parent or guardian
- The spouse of a married parent

Age When Consent of Adoptee Is Considered or Required**Statute: § 31-19-9-1**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 31-19-9-8 to 31-19-9-10**

The parent has:

- Abandoned the child for at least 6 months prior to the filing of an adoption petition
- Failed to contact or support the child for at least 1 year when the child has been in the custody of another person
- Not established paternity or has failed to register with the putative father registry
- Caused the child to be conceived as a result of rape or incest
- Had his or her parental rights terminated
- Been declared incompetent or mentally defective
- Been found to be unfit and had his or her rights terminated in child's best interest
- Been convicted of murder, manslaughter, or causing the suicide, and the victim was the child's other parent
- Been convicted of murder, manslaughter, rape, incest, neglect, battery, or causing the suicide, and the victim was the child's sibling

When Consent Can Be Executed**Statute: § 31-19-9-2**

Consent may be executed any time after the child's birth.

How Consent Must Be Executed**Statute: § 31-19-9-2**

Consent may be executed in the presence of the court, a notary public, a county authorized agent, or an authorized agent of the division or child-placing agency.

Revocation of Consent**Statute: §§ 31-19-10-3; 31-19-10-4**

- Consent may not be withdrawn after the entry of the adoption decree and pursuant to § 31-19-10-3.
- Consent to adoption may be withdrawn no later than 30 days after consent is given, if the court finds that the person seeking the withdrawal is acting in the best interest of the child.

Iowa**Who Must Consent to an Adoption****Statute: § 600.7**

- Any guardian
- The spouse of a petitioner who is a stepparent
- The spouse of a petitioner who is separately petitioning to adopt an adult person

Age When Consent of Adoptee Is Considered or Required**Statute: § 600.7**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 600.7; 600A.8**

- A person refuses to consent or cannot be located to consent.
- The parent has signed a release of custody or petition to terminate rights.
- The parent has abandoned or failed to support the child.
- The parent is a chronic substance abuser.
- The parent has committed more than one act of domestic abuse.
- The parent has abducted, removed, or improperly retained the child.

When Consent Can Be Executed**Statute: § 600A.4(2)(g)**

Parental release of custody may not be executed until at least 72 hours after the child's birth.

How Consent Must Be Executed**Statute: §§ 600.7; 600A.4**

- Consent by a minor must be executed in court. Consent by any other person may be executed in court or before a notary public.
- Consent shall contain written acknowledgment that 3 hours of counseling were offered to parents after the birth.
- Release shall be in writing, have two witnesses, shall name the person or agency accepting the release, state the purpose, and be followed by a petition for termination of parental rights within a reasonable period of time.

Revocation of Consent**Statute: §§ 600.7; 600A.4**

- A request to revoke consent may be made prior to termination of parental rights.
- If the request is made within 96 hours of executing the release, the court shall allow it.
- If the request is made after 96 hours, the court must find by clear and convincing evidence that good cause exists for revocation, such as fraud, coercion, or misrepresentation of fact.
- Consent may not be withdrawn after the filing of the final adoption decree.

Kansas**Who Must Consent to an Adoption****Statute: § 59-2129**

- In an independent adoption:
 - Living parents, or one parent if the other's consent is found unnecessary
 - A legal guardian
 - The court having jurisdiction
- In agency adoptions, an authorized representative of the agency may consent.

Age When Consent of Adoptee Is Considered or Required**Statute: § 59-2129**

A child 14 years of age or older, if of sound intellect, must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 59-2136(h)**

- The father:
 - Has neglected or abandoned the child
 - Has failed to contact or support the child
 - Is unfit or incapable of consent
 - Failed to support mother during pregnancy
 - Abandoned the mother
 - Raped the mother
 - Failed to assume parental duties for 2 years
- As far as is applicable, the provisions also apply to the mother.

When Consent Can Be Executed**Statute: §§ 59-2114(b); 59-2116**

- The mother may not give consent until 12 hours after the child's birth. Consent must be executed not more than 6 months before an adoption petition is filed.
- Presumably, a father can consent at any time.

How Consent Must Be Executed**Statute: §§ 59-2114; 59-2115**

- Consent shall be in writing and acknowledged before a judge or authorized officer.
- A minor parent may consent, but must be provided with counsel prior to execution of consent, and counsel must be present when the consent is signed.

Revocation of Consent**Statute: § 59-2114**

A consent is final when executed unless the consenting party, prior to the final decree of adoption, proves by clear and convincing evidence that consent was not freely and clearly given.

Kentucky**Who Must Consent to an Adoption****Statute: § 199.500**

- The parents or surviving parent of a child born in wedlock
- The mother
- The father, if he is married to the mother or otherwise has established paternity

A guardian *ad litem* must be appointed for a minor parent.

Age When Consent of Adoptee Is Considered or Required**Statute: § 199.500**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 199.500; 199.502**

A parent:

- Has abandoned or failed to support the child for a period of not less than 90 days
- Has inflicted serious injury or allowed the child to be sexually abused
- Has had parental rights to the child or another child terminated
- Has been adjudicated as mentally disabled

When Consent Can Be Executed**Statute: § 199.500**

Consent is invalid if given prior to 72 hours after the child's birth.

How Consent Must Be Executed**Statute: § 625.040**

A petition for voluntary termination of parental rights shall be filed in the circuit court of the county where petitioner resides.

Revocation of Consent**Statute: § 199.500**

Consent shall become final 20 days after an approved placement is made, or 20 days after execution of the consent, whichever is later.

Louisiana**Who Must Consent to an Adoption****Statute: Ch. Code Art. 1193**

- The mother
- The father or alleged father, if he has established parental rights
- The biological father whose paternity has been established
- The custodial agency who has placed the child for adoption

Age When Consent of Adoptee Is Considered or Required

Not addressed in statutes reviewed

When Parental Consent Is Not Needed**Statute: Ch. Code Art. 1245**

In an intrafamily adoption, the consent of a parent may be dispensed with when the parent with custody is married to the petitioner and the other parent has failed to support, visit, or communicate with the child without just cause for at least 6 months.

When Consent Can Be Executed**Statute: Ch. Code Art. 1122(b)(1); 1130; 1195**

- The act of surrender by the mother shall not be executed prior to the 5th day after the child's birth.
- A father may execute act of surrender prior to or any time after the child's birth.

How Consent Must Be Executed**Statute: Ch. Code Art. 1121; 1122**

- Consent must be executed before a notary and two witnesses.
- Prior to this, the parent must undergo at least two counseling sessions, consult with an attorney, and be informed about the Voluntary Registration Law.
- In a private adoption, the parent must be represented by his or her own attorney at the time of the execution of consent.
- Any parent may give consent in open court, provided:
 - The parent appears in person.
 - The court informs the parent of the consequences of his or her consent.
 - The parent voluntarily consents to the adoption.

Revocation of Consent**Statute: Ch. Code Art. 1123; 1130; 1147**

- Consent is irrevocable upon execution.
- The father's consent is irrevocable upon execution; if it was given prior to 5 days after the child's birth, it is not irrevocable until the 5th day after the child's birth.
- An alleged or adjudicated father's consent is irrevocable upon execution.
- No act of surrender shall be subject to annulment except on proof of fraud or duress.

Maine**Who Must Consent to an Adoption****Statute: Tit. 18-A, § 9-302**

- Each living parent, unless consent has been waived
- The person or agency having legal custody
- A guardian appointed by the court

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 18-A, § 9-302**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Tit. 18-A, §§ 9-302; 9-201**

- The parent has abandoned the child.
- The parent fails to assume parental responsibility.
- The parent's rights have been terminated.
- The child is 18 years of age or older.
- A putative father has failed to respond to notice or has waived right of notice.

When Consent Can Be Executed**Statute: Tit. 18-A, §§ 9-202; 9-302**

- Consent can be executed any time after the child's birth.
- A petition for adoption must be pending before consent is executed.

How Consent Must Be Executed**Statute: Tit. 18-A, § 9-202**

- Parents must execute consent before a judge.
- Consent by an agency may be executed before a notary public and filed with the probate court.
- The adoptee, if 14 years of age or older, must execute consent before a judge.

Revocation of Consent**Statute: Tit. 18-A, § 9-202**

- A consent or release will not be valid until 3 days after it has been executed; it then becomes final and irrevocable.
 - If the adoption placement that has been consented to is not finalized within 18 months, a review must be held.
-

Maryland**Who Must Consent to an Adoption****Statute: Fam. Law § 5-311**

- The natural mother and father
- If parental rights have been terminated, the head of the agency that has been awarded guardianship

Age When Consent of Adoptee Is Considered or Required**Statute: Fam. Law § 5-311**

A child 10 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Fam. Law § 5-312**

- The child has been out of the parent's custody for 1 year, and is in the custody of a child-placing agency.
- The child has been out of the parent's custody for 1 year, and has formed a significant attachment to the petitioner.
- The child has been abandoned.
- The parent has failed to maintain meaningful contact with the child or to support the child.
- The parent has been convicted of child abuse or a crime of violence against a child.

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed**Statute: Fam. Law § 5-314**

- Consent must contain an express notice of the right to revoke.
- A minor parent's consent is valid only when accompanied by an affidavit from counsel stating that consent is given knowingly and willingly.

Revocation of Consent**Statute: Fam. Law § 5-311**

- Consent may be revoked within 30 days by an individual or an agency.
 - The individual to be adopted may revoke consent at any time before a decree of adoption is entered.
-

Massachusetts**Who Must Consent to an Adoption****Statute: Ch. 210 § 2**

- The lawful parents, who may be previous adoptive parents
- A surviving parent
- The mother only, if the child has been born out of wedlock
- The child's spouse

Age When Consent of Adoptee Is Considered or Required**Statute: Ch. 210 § 2**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Ch. 210 § 3**

- The child is over age 18 years.
- The court determines that waiver is in the child's best interest.
- The child has been abandoned or subjected to abuse or neglect.
- The parent has been convicted of murder or manslaughter, and the victim was the other parent or a sibling of the child.
- The child has been in foster care for 15 of the latest 22 months.

When Consent Can Be Executed**Statute: Ch. 210 § 2**

Written consent shall be executed no sooner than the 4th day after the birth of the child.

How Consent Must Be Executed**Statute: Ch. 210 § 2**

Consent is executed before a notary public in the presence of 2 competent witnesses.

Revocation of Consent**Statute: Ch. 210 § 2**

- Consent to adoption, executed according to statutory provision, is final and cannot be revoked.
- Sample surrender and consent forms are found in the statute.

Michigan**Who Must Consent to an Adoption****Statute: § 710.43**

- Each parent or surviving parent
- The authorized representative of the child-placing agency to whom the child has been released
- The child's guardian
- The court or tribal court having permanent custody
- If the parent of the adoptee is a minor, the minor's parent

Age When Consent of Adoptee Is Considered or Required**Statute: § 710.43**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 710.37; 710.43; 710.51(6)**

- The putative father denies paternity or interest in custody.
- The putative father fails to respond to notice of adoption.
- The putative father is unknown, or his whereabouts are unknown, and he has not made provision for the child's care.
- If a putative father fails to file a notice of intent to claim paternity prior to the expected date of confinement or birth, he waives any rights to the child and thereby consents.
- The parent fails to provide support.
- Parental rights have been terminated or relinquished.
- The noncustodial parent has failed for 2 years or more to support or communicate with the child.

When Consent Can Be Executed**Statute: §§ 710.29; 710.44; 710.34; 710.31**

- Consent may not be executed until after an investigation and a judge has explained their rights to the parents.
- At the mother's request, her consent shall be delayed until the court determines the status of the putative father's request for custody.

How Consent Must Be Executed**Statute: §§ 710.29; 710.44**

- Release is executed before a judge or referee of the juvenile court.
- If the release is given by an armed services member, incarcerated person, or agent of a child-placing agency, it is executed before a person authorized to administer oaths.
- The parent must verify that counseling was received and no payment was offered.

Revocation of Consent**Statute: § 710.29**

- The person who granted consent may petition the court for a hearing on whether to grant revocation.
- A release may not be revoked if the child has been placed for adoption, unless the child was placed as provided by § 710.41(2) [while an appeal of a termination of parental rights is pending], and a petition has been filed for a rehearing within the time required.

Minnesota**Who Must Consent to an Adoption****Statute: § 259.24, subd. 1, 2**

- The child's parents or guardian must consent.
- If there is no qualified parent or guardian, consent may be given by a commissioner.
- If the unmarried parent is under age 18, the consent of the minor's parent or guardian is required.

Age When Consent of Adoptee Is Considered or Required**Statute: § 259.24, subd. 3**

A child 14 years of age or older must consent in writing to the adoption.

When Parental Consent Is Not Needed**Statute: § 259.24, subd. 1**

The parent has:

- Abandoned the child
- Had parental rights terminated
- Lost custody through a court proceeding

When Consent Can Be Executed**Statute: § 259.24, subd. 2a**

Consent may be executed no sooner than 72 hours after the child's birth and no later than 60 days after the child's placement in a prospective adoptive home.

How Consent Must Be Executed**Statute: § 259.24, subd. 5**

Consent must be in writing and must:

- Be executed before two witnesses
- Contain a notice of the right to withdraw consent
- Contain a notice that if the child is not adopted, the parent may be required to support the child

Revocation of Consent**Statute: §§ 259.24 subd.6a; 259.47 subd. 7**

- Consent may be withdrawn for any reason within 10 working days after it is executed.
- After 10 days, consent becomes irrevocable unless a court finds that it was obtained by fraud.

Mississippi**Who Must Consent to an Adoption****Statute: § 93-17-5**

- The parents or parent, if only one is living
- If both parents are deceased, then any two adult kin, provided at least one is in possession of the child
- A guardian *ad litem* of an abandoned child
- Any person having custody of the child
- An agent of the county department

Age When Consent of Adoptee Is Considered or Required**Statute: § 93-17-5**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 93-17-5; 93-17-7**

- The parent:
 - Has abandoned or abused the child
 - Has failed to assume parental responsibilities
 - Suffers a medical or emotional illness or chemical dependency
 - Has had parental rights terminated
- The father of a child born out of wedlock, unless he has shown within 30 days of the child's birth a commitment to parenthood

When Consent Can Be Executed**Statute: § 93-17-5**

Consent is executed no sooner than 72 hours after the child's birth.

How Consent Must Be Executed**Statute: § 93-17-5**

Consent is executed before and filed by an authorized officer of any institution engaged in placing children for adoption.

Revocation of Consent

Case law suggests that consent is irrevocable absent fraud, duress, or undue influence, shown by clear and convincing evidence, and considering the best interests of the child.

Missouri**Who Must Consent to an Adoption****Statute: § 453.030**

- The mother
- Only the man who is presumed to be the father, if he has acted to establish paternity no later than 15 days after the birth of the child, or has filed with the putative father registry
- The child's current adoptive parents or other legally recognized parent

Age When Consent of Adoptee Is Considered or Required**Statute: § 453.030**

A child 14 years of age or older must consent to the adoption, except where the court finds that the child lacks sufficient mental capacity.

When Parental Consent Is Not Needed**Statute: § 453.040**

A parent:

- Whose rights have been terminated
- Whose identity is unknown
- Who has been found incompetent
- Who has abandoned or failed to support or care for the child

When Consent Can Be Executed**Statute: § 453.030**

Consent may be executed before a judge or notary public any time after the child is 48 hours old, before or after a petition for adoption is filed.

How Consent Must Be Executed**Statute: § 453.030**

Consent must be acknowledged before a notary public, or have the consenting person's signature witnessed by two adults.

Revocation of Consent**Statute: § 453.030**

- Consent may be withdrawn at any time until it is reviewed and accepted by the judge.
- Case law states that consent is irrevocable absent fraud, duress, or coercion.

Montana**Who Must Consent to an Adoption****Statute: § 42-2-301**

- The birth mother
- The husband of the mother if he is the presumed father
- Any other person whose parental rights have been established
- The agency that has custody of the child
- The legal guardian

Age When Consent of Adoptee Is Considered or Required**Statute: § 42-2-301**

A child 12 years of age or older must consent, either in writing or in court, unless he lacks the mental capacity to consent.

When Parental Consent Is Not Needed**Statute: § 42-2-302**

An individual:

- Whose parental rights have been terminated for unfitness, or who has waived rights
- Who has been declared incompetent
- Who has not been married to the mother and denies paternity
- Who is the personal representative of a deceased parent's estate

When Consent Can Be Executed**Statute: § 42-2-408**

- A parent may not consent until 72 hours after the child's birth and must first receive counseling.
- A guardian may consent any time after being authorized by the court.

How Consent Must Be Executed**Statute: §§ 42-2-303; 42-2-405**

- Consents must be acknowledged before an authorized officer of the department, an agency, or the court.
- Consent by a minor parent is not valid unless the minor has been advised by an attorney who does not represent the prospective adoptive parents.

Revocation of Consent**Statute: § 42-2-410**

- The parent who has relinquished the child and the prospective adoptive parent may mutually agree to revocation prior to the issuance of an order terminating parental rights.
- A relinquishment cannot be revoked once that order has been issued.

Nebraska**Who Must Consent to an Adoption****Statute: §§ 43-104; 43-105**

- Any court having jurisdiction over the custody of the child
- Both parents or the surviving parent of a child born in wedlock
- The mother of a child born out of wedlock and the father, provided he has filed with the biological father registry
- The department or child-placing agency
- The guardian or guardian *ad litem* of the child

Age When Consent of Adoptee Is Considered or Required**Statute: § 43-104**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 43-104; 43-105**

A parent:

- Has relinquished the child for adoption by written instrument
- Has abandoned the child for at least 6 months
- Has had his or her parental rights terminated
- Is incapable of giving consent

When Consent Can Be Executed**Statute: § 43-104**

Consent is not valid unless signed at least 48 hours after the birth of the child.

How Consent Must Be Executed**Statute: § 43-106**

Consent must be executed before an authorized officer or, in private placements, before at least one witness.

Revocation of Consent

Case law suggests that relinquishment is irrevocable unless there is a finding that revocation is in the child's best interest, or upon a finding of fraud, duress, or undue influence.

Nevada**Who Must Consent to an Adoption****Statute: § 127.040**

- Both parents if both are living
- One parent if the other is deceased
- The guardian of the child appointed by the court

Age When Consent of Adoptee Is Considered or Required**Statute: § 127.020**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 127.090; 127.040**

- The parental rights have been terminated by court order.
- A parent has been adjudged insane for 2 years, and there is proof that the insanity is incurable.

When Consent Can Be Executed**Statute: § 127.070**

- Consents executed by the mother before the child's birth or within 72 hours after the birth are invalid.
- The father may consent before the birth if he is not married to the mother.

How Consent Must Be Executed**Statute: §§ 127.053; 127.043; 127.057**

- Consent must be executed before two witnesses, identifying the child and adopting parents, and a copy must be delivered within 48 hours to the Welfare Department.
- A child must not be placed in an adoptive home until consent has been executed by the mother.

Revocation of Consent**Statute: §§ 127.070; 127.080**

- Consent by the mother to a specific adoptive placement cannot be revoked except when the adoptive family is found to be unsuitable or the placement is in violation of the law.
- Consent by the father who is not married to the mother becomes invalid if:
 - The father marries the mother before the child is born.
 - The mother does not consent to adoption of the child within 6 months of the child's birth.
 - No petition for adoption has been filed within 2 years of the child's birth.

New Hampshire**Who Must Consent to an Adoption****Statute: § 170-B:5***[Effective January 2, 2005]*

- The birth mother, provided that if she is under age 18 years, the court may require the consent of her parents or guardian
- The legal and/or natural father, provided that if he is under age 18, the court may require the consent of his parents or guardian
- The legal guardian, if both birth parents are deceased or have had their parental rights terminated
- The department or agency having custody of the child

Age When Consent of Adoptee Is Considered or Required**Statute: § 170-B:3***[Effective January 2, 2005]*

A child 14 years of age or older must consent to the adoption, unless the court decides that is not in the best interests of the child to require consent.

When Parental Consent Is Not Needed**Statute: § 170-B:7***[Effective January 2, 2005]*

- An unwed father has failed to establish paternity.
- A parent's rights have been voluntarily or involuntarily terminated.

When Consent Can Be Executed**Statute: § 170-B:8***[Effective January 2, 2005]*

No consent is valid until at least 72 hours after the child's birth.

How Consent Must Be Executed**Statute: §§ 170-B:9; 170-B:10***[Effective January 2, 2005]*

- Any parent surrendering rights must be represented by legal counsel.
- Relinquishments shall be executed through an agency or the department.
- Consent must be in writing and executed in court or before an authorized person.
- In agency placements, consent can be executed before an authorized representative.
- At the time of relinquishment, the parent shall file with the court an affidavit stating that the parent has been informed of available counseling services.
- The surrendering parent shall file with the court medical and background information about the birth parents and the child.

Revocation of Consent**Statute: § 170-B:12***[Effective January 2, 2005]*

- A parent wishing to withdraw consent shall notify the court in writing prior to the entry of the final decree.
 - Consent may not be withdrawn unless the court finds that:
 - The parent seeking to withdraw his or her consent has proven by a preponderance of the evidence that the surrender was obtained by fraud or duress.
 - The withdrawal of consent is in the best interests of the child.
 - Consent may not be withdrawn after entry of the final decree for any reason.
-

New Jersey**Who Must Consent to an Adoption****Statute: § 9:3-41**

- The parent or guardian of the child
- Any agency which has obtained the authority to place the child for adoption

Age When Consent of Adoptee Is Considered or Required**Statute: § 9:3-49**

A child 10 years of age or older is required to appear at the final adoption hearing and the child's wishes be given consideration, provided the child has the capacity to form an intelligent preference.

When Parental Consent Is Not Needed**Statute: § 9:3-45; 9:3-46**

The parent:

- Has executed a valid surrender
- Has had parental rights terminated
- Has had the child made available for adoption
- Has failed to contact or support the child
- Has not acknowledged paternity
- Is a father whose whereabouts are unknown
- Does not file written objections to an adoption within 20 days after notice is given

When Consent Can Be Executed**Statute: § 9:3-41(e)**

- Consent may be executed only after 72 hours after the child's birth.
- An alleged father may execute a disclaimer of parental interest at any time, including before the child's birth.

How Consent Must Be Executed**Statute: §§ 9:3-41(a); 9:3-45(b)(4)**

- Surrender to an approved agency shall be in writing before an authorized person.
- A hearing may be held to determine whether the surrender was voluntary and proper.

Revocation of Consent**Statute: § 9:3-41(a)**

- If executed according to provisions, surrender to an agency is valid, binding, and irrevocable, and constitutes a termination of parental rights.
 - At the discretion of the agency, consent may be set aside when based on fraud, duress, or misrepresentation.
-

New Mexico**Who Must Consent to an Adoption****Statute: § 32A-5-17**

- The mother
- The presumed or acknowledged father
- The department or agency to whom the child has been relinquished
- The guardian of the parent when the guardian has right of consent
- For an Indian child, an Indian custodian

Age When Consent of Adoptee Is Considered or Required**Statute: § 32A-5-17**

A child 10 years of age or older must consent, unless a court finds the child lacks the mental capacity to give consent.

When Parental Consent Is Not Needed**Statute: §§ 32A-5-18; 32A-5-19**

- A parent's rights have been terminated or have been relinquished to an adoption agency.
- A person is the biological father of a child conceived by rape or incest.
- Any person has failed to respond to notice.
- An alleged father has failed to register with the putative father registry within 10 days of the child's birth.
- The parent has left the child without identification for 14 days or has failed to contact or support the child:
 - For 3 months, if the child is under 6 years of age
 - For 6 months, if the child is age 6 years or older

When Consent Can Be Executed**Statute: § 32A-5-21(G)**

No consent is valid for at least 48 hours after the child's birth.

How Consent Must Be Executed**Statute: §§ 32A-5-21; 32A-5-23**

- Consent must be in writing, and must confirm that the parent has received counseling and has been advised of the legal consequences of relinquishment.
- Consent shall be executed before a judge, an individual appointed to take consents, or by an agency licensed by the State.
- If consent is not executed before a judge, the consenting parent must be represented by independent counsel, and a guardian *ad litem* must be appointed for any adopted person whose consent is required.

Revocation of Consent**Statute: § 32A-5-21(l)**

- Consents may not be withdrawn prior to the entry of the final judgment unless the consent was obtained by fraud.
 - After the final decree, consent is irrevocable.
-

New York**Who Must Consent to an Adoption****Statute: Dom. Rel. Law §§ 111; 113**

- Both parents, if child is born or conceived in wedlock
- For a child born out of wedlock, the mother and the father, if he has shown an interest in the child
- Any person or agency having custody
- An agency if the agency has custody and guardianship of the child, if both parents are deceased, or one parent is deceased and the other parent is not entitled to notice

Age When Consent of Adoptee Is Considered or Required**Statute: Dom. Rel. Law § 111**

A child 14 years of age or older must consent to the adoption unless the court dispenses with consent.

When Parental Consent Is Not Needed**Statute: Dom. Rel. Law § 111**

The parent:

- Has failed to visit or contact the child for 6 months
- Has surrendered the child to an agency for adoption
- Shows intent to forego rights
- Whose child has a court appointed guardian
- Is unable to care for the child due to mental illness
- Has executed an instrument, which shall be irrevocable, denying paternity of the child

When Consent Can Be Executed

- This issue is not addressed in statutes reviewed.
- Case law implies that consent may be executed any time after the child's birth.

How Consent Must Be Executed**Statute: Dom. Rel. § 115-b; Soc. Serv. Law. § 384**

- For private adoptions, the statute distinguishes between consents executed in court and extra-judicial consents, and details contents required for consents to be valid.
- For agency adoptions, the statute details requirements for a valid written surrender.

Revocation of Consent**Statute: Dom. Rel. § 115-b**

- In a private adoption, consent given in court is irrevocable.
 - An extra-judicial consent may be revoked within 45 days.
 - Parental consents to private adoptions and surrenders in agency adoptions may be challenged if obtained by fraud, duress, or coercion.
-

North Carolina**Who Must Consent to an Adoption****Statute: §§ 48-3-601; 48-3-602**

- The mother
- A man who was married to the mother or has legitimated the child
- A guardian
- The agency that placed the child for adoption
- The guardian *ad litem* of an incompetent parent

Age When Consent of Adoptee Is Considered or Required**Statute: §§ 48-3-601; 48-3-603**

A child 12 years of age or older must consent to the adoption unless the court finds that it is not in the child's best interest to require consent.

When Parental Consent Is Not Needed**Statute: § 48-3-603**

- The parent fails to respond to notice within 30 days.
- A putative father cannot establish parental rights.
- Rights have been terminated or relinquished.
- A man denies paternity or is judicially determined not to be the father.
- The representative of a deceased parent's estate lacks right to consent.
- An individual is convicted of a rape that results in the conception of the child to be adopted.
- A guardian or agency is found to be withholding consent contrary to the best interests of the child.

When Consent Can Be Executed**Statute: § 48-3-604**

- A man may consent any time before or after the child's birth.
- A mother may only consent after the child's birth.
- A guardian may consent at any time.
- An agency with custody shall execute its consent no later than 30 days after being served notice of a proceeding for adoption.

How Consent Must Be Executed**Statute: §§ 48-3-605; 48-3-606**

- Consent must be signed and executed under oath before an authorized individual, declaring that consent was voluntary and stating the legal consequences of the consent.
- The parent must also have been advised of the right to legal counsel and been made aware of counseling services that are available through the department.

Revocation of Consent**Statute: §§ 48-3-607; 48-3-608; 48-3-609**

- Consent is generally final and irrevocable.
- Consent to an infant *in utero* or any other minor may be revoked within 7 days following execution.
- In a direct placement, consent may be revoked in 5 business days.
- Consent may be revoked if there is fraud, duress, or mutual agreement.
- If a parent revokes consent, and later consents again, the second consent is irrevocable.

North Dakota**Who Must Consent to an Adoption****Statute: § 14-15-05**

- The mother, whether by birth or adoption
- The father, whether by adoption or otherwise legitimated
- The presumed biological father
- Any individual lawfully entitled to custody
- The court having jurisdiction to determine custody
- The spouse of the minor to be adopted

Age When Consent of Adoptee Is Considered or Required**Statute: § 14-15-05**

A child 10 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 14-15-06**

- The child has been abandoned.
- The parent fails to communicate with or support the child for 1 year.
- Parental rights have been terminated or relinquished.
- The person to be adopted is an adult.
- The parent is incompetent.
- Any legal guardian who:
 - Fails to respond to a request for consent
 - Is found to be withholding consent unreasonably

When Consent Can Be Executed**Statute: § 14-15-07**

Consent may be executed anytime after the child's birth.

How Consent Must Be Executed**Statute: § 14-15-07**

- If by an agency, consent must be executed by the executive head of the agency or other representative before an individual authorized to take acknowledgments.
- If by an individual, consent must be executed before a court or an individual authorized to take acknowledgments.
- If by a court, consent must be executed by the appropriate order or certificate.

Revocation of Consent**Statute: § 14-15-08**

- Consent can be withdrawn before the final adoption order, but only if the court finds that it is in the child's best interest.
 - Consent cannot be withdrawn after the entry of a final decree of adoption.
-

Northern Mariana Islands**Who Must Consent to an Adoption****Statute: Tit. 8 § 1404**

- The mother
- The legal father of a legitimate child
- An adjudicated or presumed father
- A concerned natural father who has shown a reasonable degree of interest
- Any person or agency having custody
- The court having jurisdiction

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 8 § 1404(8)**

A child over the age of 10 years must consent unless the court, in the child's best interest, dispenses with consent.

When Parental Consent Is Not Needed**Statute: Tit. 8 § 1405(a)**

- The parent has:
 - Abandoned the child
 - Failed to communicate with or support the child
 - Relinquished his rights or had them terminated
 - Been declared incompetent or mentally defective
- Any legal guardian who:
 - Fails to respond to a request for consent
 - Is found to be withholding consent unreasonably

When Consent Can Be Executed**Statute: Tit. 8 § 1406(a)**

Any time after the birth of the child

How Consent Must Be Executed**Statute: Tit. 8 § 1406(a)**

- The adopted person must consent in the presence of the court.
- An agency head must consent in the presence of an authorized person.
- Any other person can consent either before the court or an authorized person.
- Consent by the court is by appropriate order or certificate.

Revocation of Consent**Statute: Tit. 8 § 1407**

- Consent cannot be withdrawn after the entry of a decree of adoption.
- Prior to the entry of the decree, consent can be withdrawn by petition to the court and a finding that withdrawal is in the child's best interest.

Ohio**Who Must Consent to an Adoption****Statute: § 3107.06**

- The mother
- The father:
 - If the child was conceived or born while he was married to the mother
 - If he is the adoptive father
 - If he has established paternity
- The putative father
- Any agency or person having permanent custody
- The court having jurisdiction to determine custody

Age When Consent of Adoptee Is Considered or Required**Statute: § 3107.06**

A child 12 years of age or older must consent, unless the court finds that it is in the child's best interest to waive the requirement.

When Parental Consent Is Not Needed**Statute: § 3107.07**

- The parent has failed to contact or provide for the child for 1 year.
- The putative father has failed to register with the putative father registry within 30 days of the child's birth.
- The putative father is not the actual father or has abandoned the child before or after birth.
- The parent has relinquished rights or has had parental rights terminated.
- The father or putative father is convicted of a rape that results in the conception of the child.
- A guardian or custodian withholds consent unreasonably.
- A parent or guardian is in a foreign country and child has been released for adoption pursuant to laws in that country.

When Consent Can Be Executed**Statute: § 3107.08(A)**

Consent cannot be executed until at least 72 hours after the child's birth.

How Consent Must Be Executed**Statute: § 3107.08**

Consent must be executed in the following manner:

- If by the adopted person, in the presence of the court
- If by an agency, before an authorized person
- If by another person, before the court or an authorized person
- If by a court, by an appropriate order

Revocation of Consent**Statute: § 3107.084**

A consent is irrevocable except if consent is withdrawn prior to the:

- Entry of the interlocutory order
 - Entry of the final decree, when no other order has been entered, after a hearing that finds withdrawal is in the best interest of the adopted person
-

Oklahoma**Who Must Consent to an Adoption****Statute: Title 10, § 7503-2.1**

- Both parents
- One parent if the other is deceased, has had rights terminated, or whose consent is not required
- A legal guardian
- The head of a child-placing agency to the whom the child has been relinquished
- Any person having legal custody
- The parents or guardian of a minor parent under age 16 years

Age When Consent of Adoptee Is Considered or Required**Statute: Title 10, § 7503-2.1**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Title 10, § 7505-4.2**

- Parental rights have been terminated.
- For 12 months, the parent has failed to support the child.
- A parent has been convicted of physical or sexual abuse, or is incarcerated.
- A putative father fails to acknowledge paternity.
- A parent has a mental illness or deficiency.

When Consent Can Be Executed**Statute: Title 10, §§ 7503-2.2; 7503-2.3**

- The parent may not execute consent until after the child's birth.
- A putative father may consent before or after the child's birth.
- A permanent relinquishment may be executed any time after the child's birth, after court authorization, but it must be in writing and include a statement of irrevocability.

How Consent Must Be Executed**Statute: Title 10, §§ 7503-2.3; 7503-2.6**

- Parents may relinquish to the department, an agency, or another person.
- Consent must be in writing and executed before a judge.
- Consent must state that it was executed voluntarily and unequivocally.
- A putative father may make an extra-judicial consent.

Revocation of Consent**Statute: Title 10, §§ 7503-2.7; 7503-2.6**

- Consent is irrevocable, except if it was obtained by fraud or duress, or if a court finds that it is in the child's best interest, and there has been no adoptive placement for 9 months.
- An extra-judicial consent is revocable for any reason for 15 days.

Oregon**Who Must Consent to an Adoption****Statute: §§ 109.312; 109.316**

- The parents, or surviving parent
- A guardian
- Next of kin
- A suitable person appointed by the court as next friend of the child
- State office or agency to which custody has been surrendered

Age When Consent of Adoptee Is Considered or Required**Statute: § 109.328**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: §§ 109.314; 109.322; 109.324; 109.326**

- A parent:
 - Does not retain custody
 - Is mentally ill or deficient
 - Has been imprisoned more than 3 years
 - Has deserted or neglected the child
- The mother's husband is found not to be the child's father

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed

Statute: §§ 109.312; 418.270

- Consent must be in writing and its validity attested to by the court or an authorized person.
- A parent may execute consent or surrender to a child-placing agency for the purpose of placing the child for adoption by that agency.

Revocation of Consent

Statute: § 109.312

Consent may not be revoked unless fraud or duress is proved with respect to any material fact surrounding the adoption procedure.

Pennsylvania**Who Must Consent to an Adoption**

Statute: 23 Pa. § 2711

- The parents or surviving parent
- The guardian or custodian of an incapacitated adopted person
- The husband or former husband of the natural mother, unless there is proof that he is not the natural father

Age When Consent of Adoptee Is Considered or Required

Statute: 23 Pa. § 2711

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed

Statute: 23 Pa. §§ 2713; 2714; 2511

- The adopted person is age 18 years or older, or has no living parent whose consent is required.
- The parent of a newborn fails to maintain contact for 4 months.
- The child was conceived as a result incest or rape by the father.
- Parental rights have been terminated.
- The mother's husband is not the natural father of the child.

When Consent Can Be Executed

Statute: 23 Pa. § 2711(c)

- Consent may not be executed until at least 72 hours after the child's birth.
- A putative father may execute consent at any time after receiving notice of the expected or actual birth of the child.

How Consent Must Be Executed**Statute: 23 Pa. §§ 2503-2504; 2711(d)**

- The birth parent must file a petition with the court requesting permission to relinquish his or her parental rights to the child.
- Upon petition by an intermediary, or the adopting parent where there is no intermediary, the court shall hold a hearing to confirm consent.
- The consent shall include the name, age, and marital status of the petitioner, the relationship of the consenter to the child, and the name of the other parent.
- Consent shall also include the date and place of its execution, and the names, addresses, and signatures of at least two witnesses and their relationship to the consenter.

Revocation of Consent**Statute: 23 Pa. § 2711(c)**

- The birth or putative father's consent is irrevocable unless revoked within 30 days after the child's birth or the execution of consent, whichever occurs later.
- The birth mother's consent is irrevocable 30 days after execution.
- A person may challenge the validity of a consent only by filing a petition alleging fraud or duress, within the earlier of:
 - 60 days after the birth of the child or the execution of consent, whichever is later
 - 30 days after entry of the adoption decree

Puerto Rico**Who Must Consent to an Adoption****Statute: Tit. 31 § 535**

- The parents, if they possess *patria potestas*, as well as the father or mother who, due to a divorce, does not possess the *patria potestas* of a minor
- The Secretary of the department
- The special or legal guardian
- The grandparents, if the parents are minors

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 31 § 535**

A child over 10 years of age must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Tit. 31 § 634a**

The parent:

- Causes or permits substantial harm to the child
- Fails to fulfill parental duties
- Abandons or fails to support the child
- Fails to fulfill a service plan
- Commits any of the felonies listed in the statute

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed**Statute: Tit. 32 § 2699b**

Written consent of parents shall be attached to the adoption petition.

Revocation of Consent**Statute: Tit. 32 § 2699q**

The adoption decree is voidable when parties entitled to notice have not been notified, when there are flaws or defects in the parental consents, or when there has been fraud.

Rhode Island**Who Must Consent to an Adoption****Statute: §§ 15-7-5; 15-7-10**

- The parents or surviving parent
- The guardian or next of kin
- A suitable person appointed by the court as next friend of the child
- When the parent is a minor, one of the child's grandparents, a guardian, or guardian *ad litem*

Age When Consent of Adoptee Is Considered or Required**Statute: § 15-7-5**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 15-7-7**

- Parental rights have been terminated.
- The parent has neglected or abused the child or subjected the child to aggravated circumstances.
- The parent is deemed unfit due to emotional or mental illness, excessive drug or alcohol abuse.
- The parent has voluntarily or involuntarily placed the child in the care of a licensed agency.

When Consent Can Be Executed**Statute: § 15-7-6**

Termination of rights or consent to adoption may not be executed sooner than 15 days after the child's birth.

How Consent Must Be Executed**Statute: § 15-7-5**

Consent must be in writing.

Revocation of Consent**Statute: § 15-7-21.1**

A decree of adoption or consent cannot be challenged except by a petition filed within 180 days, and a finding by the court that the adoption is not in the child's best interest.

South Carolina**Who Must Consent to an Adoption****Statute: § 20-7-1690**

- The parents or surviving parent
- The father when the parents are not married, if the father has maintained substantial contact with the child
- The legal guardian
- The child-placing agency or legal custodian

Age When Consent of Adoptee Is Considered or Required**Statute: § 20-7-1690**

A child 14 years of age or older must consent to the adoption, except where the court finds that the child lacks the mental capacity to consent or that it is not in the child's best interest.

When Parental Consent Is Not Needed**Statute: § 20-7-1695**

- Parental rights have been terminated pursuant to statute.
- The parent has executed a relinquishment.
- The parent has been judged mentally incapable.

When Consent Can Be Executed**Statute: § 20-7-1700**

Consent may be given at any time after the child's birth.

How Consent Must Be Executed**Statute: §§ 20-7-1700; 20-7-1705**

- Consent must be by a sworn statement, signed in the presence of two witnesses, one of whom must be a judge, a disinterested attorney, or authorized person.
- The witness must attest that consent was voluntary and executed without duress or coercion, and contain detailed information and a statement of the legal consequences of signing.

Revocation of Consent**Statute: § 20-7-1720**

- Revocation is not permitted except where it is in the child's best interest, and if consent was given involuntarily or under duress or coercion.
- The final decree renders the consent irrevocable.

South Dakota**Who Must Consent to an Adoption****Statute: § 25-6-4**

No child may be adopted without the consent of the child's parents.

Age When Consent of Adoptee Is Considered or Required**Statute: § 25-6-5**

A child 12 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 25-6-4**

The parent or putative father:

- Is incarcerated for a critical period of time
- Has abandoned the child
- Is unfit by reason of habitual use of alcohol or drugs
- Has been deprived of custody
- Has neglected or failed to provide for the child

When Consent Can Be Executed**Statute: § 25-5A-4**

No petition to terminate rights or consent to adoption may be filed until 5 days after the child's birth.

How Consent Must Be Executed**Statute: §§ 25-6-12; 25-5A-16**

Consent must be in writing; followed by a court appearance to answer questions indicating the parent's voluntary action and understanding of the consequences.

Revocation of Consent**Statute: § 25-6-21**

- Except in any case involving fraud, any adoption proceeding shall be in all things legalized and validated 2 years after finalization.
- Any claims must be initiated within those 2 years.

Tennessee**Who Must Consent to an Adoption****Statute: §§ 36-1-110; 36-1-111**

- A parent under age 18 shall have the capacity to give consent to adoption.
- A guardian *ad litem* may be appointed.
- The child's parent or guardian must consent.

Age When Consent of Adoptee Is Considered or Required**Statute: § 36-1-117**

A child 14 years of age or older must consent to his or her adoption.

When Parental Consent Is Not Needed**Statute: § 36-1-113**

- There is no person qualified to give consent.
- The parent:
 - Has abandoned the child
 - Has shown substantial noncompliance with a permanency plan
 - Whose child has been out of the home for 6 months
 - Has committed severe child abuse
 - Has been imprisoned for 2 years for conduct against a child
 - Has failed to support, contact, or visit the child

When Consent Can Be Executed**Statute: § 36-1-111**

- No surrender shall be made prior to the 3rd day after the child's birth.
- The count starts on the first full day following birth.
- The court may, for good cause shown, waive the 3-day waiting period.

How Consent Must Be Executed**Statute: § 36-1-111(b)**

- Surrenders shall be made in the presence of a judge, and the court shall advise the person of the parent's rights, the time of the hearing, and procedure.
- The court may accept notarized statements if someone is unable to surrender in person.

Revocation of Consent**Statute: §§ 36-1-112; 36-1-118**

- A person may revoke a surrender within 10 days if such revocation occurs in the presence of a judge.
- After 10 days, a surrender cannot be set aside unless the court finds reasons the adoption should not go forward, as detailed in § 36-1-118.
- A surrender may be revoked at anytime prior to the entry of an order of confirmation of parental consent by the court.
- The surrender may be revoked if there is clear and convincing evidence of fraud, misrepresentation, or duress.

Texas**Who Must Consent to an Adoption****Statute: Fam. Code § 162.010**

- The managing conservator must consent.
- If a parent of the child is presently the spouse of the petitioner, he or she must join in the petition for adoption.

Age When Consent of Adoptee Is Considered or Required**Statute: Fam. Code § 162.010**

A child 12 years of age or older must consent, unless the court finds it in the child's best interest to waive consent.

When Parental Consent Is Not Needed**Statute: Fam. Code §§ 161.003; 161.005; 161.006; 161.007**

- The parent is unable to care for the child due to mental illness.
- The parent has voluntarily terminated parental rights.
- The parent has no right of consent after an abortion where the child survives.
- A person is convicted of a crime resulting in the birth of a child.
- The parent's rights have been terminated on the grounds of abandonment, nonsupport, endangerment, abuse, or neglect.

When Consent Can Be Executed**Statute: Fam. Code §§ 161.103; 161.106**

- The birth mother may consent no sooner than 48 hours after the child's birth.
- A man may sign an affidavit disclaiming any interest at any time before or after the birth of the child.

How Consent Must Be Executed**Statute: Fam. Code § 161.103**

A consent must be signed by the parent, whether or not a minor, witnessed by two credible witnesses, and verified by a person authorized to take oaths.

Revocation of Consent**Statute: Fam Code §§ 161.1035; 162.011**

- An affidavit of relinquishment that fails to state that it is irrevocable can be revoked before the 11th day after signing.
 - On the 11th day, consent becomes irrevocable.
 - Any time before an order granting an adoption is filed, consent may be revoked by filing a signed revocation.
-

Utah**Who Must Consent to an Adoption****Statute: §§ 78-30-4.14; 78-30-4.21**

- Both parents or a surviving parent of child born in wedlock
- The mother
- Any biological father who has established paternity
- The child-placing agency to which the child has been relinquished
- A minor parent has the power to consent

Age When Consent of Adoptee Is Considered or Required**Statute: §§ 78-30-4.14; 78-30-6**

A child 12 years of age or older must consent to the adoption, unless he does not have the capacity to consent.

When Parental Consent Is Not Needed**Statute: §§ 78-30-4.17; 78-30-4.23**

- The parent's rights have been terminated by a court.
- The biological father is not entitled to notice if the child was conceived as a result of any sexual offense.

When Consent Can Be Executed**Statute: § 78-30-4.19**

- The birth mother may not execute consent until at least 24 hours after the child's birth.
- The consent of any other person that may be required may be executed at any time, including prior to the birth of the child.

How Consent Must Be Executed**Statute: § 78-30-4.18**

Consent must be signed before:

- A judge or a person appointed by the judge to take consents
- An authorized official of a child-placing agency, so long as the signature is notarized or witnessed by two individuals who are not members of the birth mother's immediate family

Revocation of Consent**Statute: § 78-30-4.20**

- Consent is effective when signed and cannot be revoked.
 - Case law suggests that consent may be revoked if induced by duress, undue influence, deception, or other grounds that would justify release from a contract.
-

Vermont**Who Must Consent to an Adoption****Statute: Tit. 15A, § 2-401**

- The birth mother
- The biological father
- The man married to the mother at the time of conception or who has acknowledged paternity
- The child's guardian, adoptive or other legally recognized parents
- The agency that placed the child for adoption

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 15A, § 2-401**

A child 14 years of age or older must consent, unless the court dispenses with the need.

When Parental Consent Is Not Needed**Statute: Tit. 15A, § 2-402**

- Persons whose consent is not required:
 - A person who has relinquished parental rights to an agency
 - A person whose rights have been terminated or determined not to exist
 - A representative of a deceased parent's estate
 - A man who denies paternity or fails to appear at proceedings
- Consent of a guardian or agency is not required if the court finds it is being withheld unreasonably or contrary to the child's best interest.

When Consent Can Be Executed**Statute: Tit. 15A, § 2-404**

- Consent by a parent may not be executed earlier than 36 hours after the child's birth.
- Consent by a guardian can be made any time after being authorized by the court.
- Consent by an agency may be made any time before or during the hearing on adoption.

How Consent Must Be Executed**Statute: Tit. 15A, § 2-405**

- Consent executed by a parent or guardian shall be signed in the presence of the probate judge or the court's authorized agent.
- A minor must consent in the presence of a judge.

Revocation of Consent**Statute: Tit. 15A, §§ 2-407; 2-408; 2-409**

- Consent is irrevocable after 21 days.
 - Consent is revoked if the parent notifies the court within 21 days; or the parent and prospective adoptive parent agree.
 - Consent may also be set aside if it was obtained by fraud or duress, or if a condition permitting revocation has occurred.
-

Virgin Islands**Who Must Consent to an Adoption****Statute: Tit. 16, § 142(a)**

- The parents or surviving parent
- The guardian or next of kin of the child in the Virgin Islands
- A guardian *ad litem* appointed by the court

Age When Consent of Adoptee Is Considered or Required**Statute: Tit. 16, § 144**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: Tit. 16, § 142(b)**

The parent:

- Is insane or imprisoned for more than 2 years
- Has deserted and neglected to provide for the child
- Is found to be an unfit parent

When Consent Can Be Executed

Not addressed in statutes reviewed

How Consent Must Be Executed**Statute: Tit. 16, § 142(a)**

Consent must be in writing.

Revocation of Consent

Not addressed in statutes reviewed

Virginia**Who Must Consent to an Adoption****Statute: § 63.2-1202**

- The mother
- The husband of the mother
- The birth father if the parents are unwed, unless the birth father cannot be determined or fails to respond to notice
- The agency or department having custody
- A minor parent shall have power to consent

Age When Consent of Adoptee Is Considered or Required**Statute: § 63.2-1202**

A child 14 years of age or older must consent to the adoption unless the court finds that the child's best interest would not be served.

When Parental Consent Is Not Needed**Statute: § 63.2-1202**

- The father has been convicted of rape, which resulted the conception of the child.
- The parent's parental rights have been terminated.
- The putative father cannot be identified, or if known, fails to respond to notice.
- The parents fail to appear at the adoption hearing.
- Consent is withheld contrary to the best interests of the child.

When Consent Can Be Executed**Statute: § 63.2-1233**

Consent is not valid until the child is 10 days old.

How Consent Must Be Executed**Statute: §§ 63.2-1202; 63.2-1232; 63.2-1233**

- Consent in a direct placement must be executed in court in the presence of the adoptive parents.
- The court shall first determine that the parent has been counseled on alternatives to adoption, and all procedures required by law have been completed.
- Entrustments and consents in agency placements may be executed before an authorized officer.
- Consent by the birth parents to placement of the child with a relative, of a degree specified per statute, may be executed before an authorized officer.

Revocation of Consent**Statute: §§ 63.2-1204; 63.2-1223; 63.2-1234**

- An entrustment agreement can be revoked by either birth parent until the child is 25 days old, and 15 days have elapsed since execution of the agreement.
- Consent can be revoked by either parent for any reason for 15 days from the date of execution.
- Parental consent can be revoked:
 - Before the final adoption order, only upon proof of fraud or duress
 - After placement of the child in an adoptive home, upon mutual written mutual consent of the birth and adoptive parents

Washington**Who Must Consent to an Adoption****Statute: §§ 26.33.080; 26.33.160**

- The parents and any alleged father
- The agency or department to which the child has been relinquished
- The legal guardian

Age When Consent of Adoptee Is Considered or Required**Statute: § 26.33.160**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 26.33.120**

- A parent's rights have been terminated in the child's best interest and due to failure to perform parental duties.
- A parent is withholding consent contrary to the child's best interests.
- For an Indian child, a parent's rights may be terminated only pursuant to standards set forth in 25 U.S.C. § 1912(f).

When Consent Can Be Executed**Statute: §§ 26.33.080; 26.33.090; 26.33.160**

- The parents' written consent and petition to relinquish may be filed before the child's birth, but the hearing may not be held sooner than 48 hours after the birth.
- If the child is an Indian child, the petition and consent shall not be signed until at least 10 days after the child's birth.

How Consent Must Be Executed**Statute: §§ 26.33.090; 26.33.160**

- Written consents may be executed out of court and mailed or delivered to the clerk of the court, but are not valid until 48 hours after signing or the birth of the child and approved by a judge.
- If the child is an Indian child, no consent shall be valid unless signed at least 10 days after the child's birth and recorded before a court of competent jurisdiction, pursuant to 25 U.S.C. § 1913(a).

Revocation of Consent**Statute: § 26.33.160**

- Consent is revocable until the court approves it.
- Thereafter, consent is irrevocable, except that for 1 year, consent may be revoked for fraud, duress, or lack of mental competency.
- For an Indian child, consent can be withdrawn for any reason before entry of final decree, and for fraud or duress within 2 years.

West Virginia**Who Must Consent to an Adoption****Statute: §§ 48-22-301; 49-3-1**

- The parents of a marital child
- The mother and determined father of a nonmarital child
- The legal guardian or other person having legal custody
- A suitable person appointed by the court as next friend to the child
- An agency having permanent legal custody of the child

Age When Consent of Adoptee Is Considered or Required**Statute: § 48-22-301**

A child 12 years of age or older must consent in the presence of a judge, but consent may be waived for 'extraordinary cause' by the court.

When Parental Consent Is Not Needed**Statute: § 48-22-301**

- Parental rights have been terminated.
- A child was abandoned or permanently relinquished.
- The parent is under disability or incurably insane.

When Consent Can Be Executed**Statute: § 48-22-302**

Consent may not be executed until at least 72 hours after the child's birth.

How Consent Must Be Executed**Statute: §§ 48-22-302; 48-22-304**

- Consent must be signed and executed in the presence of a judge, a notary, or person designated by the court to take consents.
- If the parent is a minor, consent shall be reviewed and approved by the court.

Revocation of Consent**Statute: §§ 48-22-303; 48-22-305**

- Consent may provide for conditional revocation if other required consents are not executed, or in direct placements, a petition for adoption is denied or withdrawn.
- Consent may be revoked if, prior to the entry of the adoption order, the birth parent and adopting parent mutually agree, or by a showing that consent was obtained by fraud or duress.
- The court will award custody based on child's best interest.

Wisconsin**Who Must Consent to an Adoption****Statute: §§ 48.41; 48.42**

- A parent may consent to a voluntary termination of parental rights.
- A petition may also be filed by an agency or other authorized person.

Age When Consent of Adoptee Is Considered or Required**Statute: § 48.837**

Any child 12 years of age or older is required to attend the hearing pertaining to his adoptive placement.

When Parental Consent Is Not Needed**Statute: § 48.415**

- Parental rights have been terminated due to failure of the parents to assume responsibility.
- The parent has abandoned the child.
- There is continuing parental disability.
- The parent has abused the child.
- The parent has relinquished custody of the child when the child was 72 hours old or younger.
- The parent has failed to assume responsibility for the child or to establish a substantial relationship with the child.
- The parent has caused the child to be conceived as a result of incest or sexual assault.
- The parent has been convicted of homicide or of solicitation to commit homicide of the child's other parent.

When Consent Can Be Executed**Statute: § 48.837**

A hearing is held within 30 days of the filing of a petition for voluntary termination of parental rights, but not before the birth of the child.

How Consent Must Be Executed**Statute: § 48.41**

- Consent is given in court after the judge explains the effect of termination of rights and is satisfied that consent is informed and voluntary.
- Personal appearance may be waived and written consents accepted if it is impossible or difficult for the parent to appear.

Revocation of Consent**Statute: § 48.46**

- Generally consents are irrevocable, but a parent who has consented to termination may, within 1 year, petition for relief on grounds given in § 806.07(1), i.e., mistake, newly-discovered evidence, fraud, misrepresentation, or misconduct. See the statute for detailed exceptions to the 1-year provision.
- An adoptive parent who wishes to terminate parental rights with respect to his or her adopted child must petition to terminate parental rights under § 48.42, or appeal the order granting adoption.

Wyoming**Who Must Consent to an Adoption****Statute: § 1-22-109**

- Both parents, if living
- The mother and putative father, if known
- The legal guardian
- The head of the agency to which the child has been relinquished
- The child's legal custodian
- The guardian of any parent adjudged mentally incompetent

Age When Consent of Adoptee Is Considered or Required**Statute: § 1-22-109**

A child 14 years of age or older must consent to the adoption.

When Parental Consent Is Not Needed**Statute: § 1-22-110**

- The parent fails to respond to notice.
- Parental rights have been terminated.
- The parent has abandoned the child or been adjudged guilty of child abuse or neglect.
- The child was conceived as a result of rape or incest for which the father was convicted.
- The parent fails to meet support obligations.
- A putative father fails to acknowledge paternity.

When Consent Can Be Executed**Statute: § 1-22-109**

- Consent shall be executed any time after the child's birth.
- Written relinquishment of custody and written consent are required; both may be included in the same document.

How Consent Must Be Executed**Statute: § 1-22-109**

- Consent may be acknowledged by an authorized person or representative of the department or the agency to whom custody is being relinquished.
- Consent may also be approved by the court.

Revocation of Consent**Statute: § 1-22-109(d)**

- Consent is irrevocable unless it was obtained by fraud or duress.
- If the court should deny the adoption due to the claim of a putative father, the court may allow the mother to withdraw consent.